

ESTTA Tracking number: **ESTTA311543**

Filing date: **10/14/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Enrich Software Corp.
Granted to Date of previous extension	10/14/2009
Address	2681 Hochwald Court S.W. Calgary, T3E 7M3 CANADA

Attorney information	Theodore D. Lienesch Thompson Hine LLP 2000 Courthouse Plaza NE P.O. Box 8801 Dayton, OH 45458 UNITED STATES Trademarks@thompsonhine.com, Ted.Lienesch@thompsonhine.com Phone:937-443-6958
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Applicant Information

Application No	77653862	Publication date	06/16/2009
Opposition Filing Date	10/14/2009	Opposition Period Ends	10/14/2009
Applicant	Global Education Technologies, Inc. Suite 230 900 Old Roswell Lakes Pkwy Roswell, GA 30076 UNITED STATES		

Goods/Services Affected by Opposition


Class 009. First Use: 2008/10/24 First Use In Commerce: 2008/10/24
All goods and services in the class are opposed, namely: Computer software for educators to manage, evaluate, track and report student performance for general education, response to intervention and special education

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2491101	Application Date	09/18/1998
Registration Date	09/18/2001	Foreign Priority Date	NONE
Word Mark	ENRICH		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 1994/05/00 First Use In Commerce: 1997/06/12 SOFTWARE FOR MAINTENANCE OF EQUIPMENT, NAMELY, VEHICLES AND ROLLING STOCK; MANAGEMENT SYSTEM SOFTWARE, NAMELY, SOFTWARE FOR ADMINISTERING, TRACKING, MONITORING AND MANAGING FIXED ASSETS, INVENTORY, VEHICLES, AND ROLLING STOCK, AND RELATED DOCUMENTATION

Attachments	75555271#TMSN.gif (1 page)(bytes) DAYTON-#589893-v1-EnrichNoOGlobalEducTech.pdf (5 pages)(73274 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/tdl/
Name	Theodore D. Lienesch
Date	10/14/2009

1. Enrich Software Corp. (“Opposer”) is the leading North American vendor and developer of ERP (enterprise resource planning), asset management and maintenance software solutions to the transportation industry. Opposer also provides consulting, software, training and hosting services in support of its software. Such software is used to manage all of the data elements and provide reporting tools for such aspects of a business enterprise as equipment maintenance and materials, asset management, contracts, fuel billing, fuel tax processing, customer Web access, financial management, ad hoc reports and data analysis tools, transportation operations and warehouse management. Opposer’s software is provided to customers to run on customer computer systems (“Opposer’s Goods”), and Opposer provides such functionality to its customers from its Web site as an application service provider (“ASP”) (“Opposer’s Services”; Opposer’s Goods and Opposer’s Services collectively referred to herein as “Opposer’s Goods and Services”).
2. Also included in Opposer’s Services are implementation and training services directed to Opposer’s customers to train them in using and implementing Opposer’s Goods and Opposer’s ASP services. Such implementation and training services include on-site services, classroom training services and Web-based training services.
3. Opposer is the owner of U.S. Registration No.2491101, issued September 18, 2001, for ENRICH (“Opposer’s Trademark”) for software for maintenance of equipment, namely, vehicles and rolling stock, management system software,

- namely, software for administering, tracking, monitoring and managing fixed assets, inventory, vehicles and rolling stock, and related documentation in International Class 009 (“Opposer’s Registration”). Opposer’s Registration is incontestable.
4. Opposer, through predecessors-in-interest, has been using Opposer’s Trademark in connection with the advertising and marketing of Opposer’s Goods and Services throughout the United States. Such use of Opposer’s Trademark in connection with Opposer’s Goods has been continuous and exclusive since at least as early as May, 1994, and has been continuous and exclusive with respect to Opposer’s Services since prior to 2006.
 5. Opposer’s Trademark symbolizes the extensive goodwill, reputation and consumer recognition built up by Opposer and Opposer’s predecessors-in-interest through substantial time, money and effort spent in advertising and promoting Opposer’s Goods and Services, and establishing Opposer’s Trademark in the minds of purchasers. As a result, Opposer’s Trademark has become, through widespread and favorable public acceptance and recognition, an asset of substantial value as a symbol of Opposer, its quality products and services, and its goodwill. Accordingly, Opposer’s Trademark has become so associated with Opposer that Opposer’s Trademark identifies Opposer.
 6. Global Education Technologies, Inc. (“Applicant”) seeks to register the trademark ENRICH (“Applicant’s Trademark”) for “Computer software for educators to

- manage, evaluate, track and report student performance for general education, response to intervention and special education” in International Class 009 (“Applicant’s Goods”).
7. The application for Applicant’s Trademark was filed January 21, 2009 and given Serial No. 77152652 (“Applicant’s Application”). Applicant’s Application alleges use in connection with Applicant’s Goods anywhere and use in U.S. commerce beginning October 24, 2008. Opposer has been using Opposer’s Trademark in commerce in connection with Opposer’s Goods and Services since well prior to such filing date and such use dates.
 8. On information and belief, Applicant’s Goods are at least related to or overlap Opposer’s Goods and Services. For example, Opposer provides education and training services and related materials under Opposer’s Trademark, and Applicant’s Goods are software used to manage, evaluate, track and report student performance.
 9. Applicant’s Trademark is identical to Opposer’s Trademark. When Applicant’s Goods and Opposer’s Goods and Services are taken into consideration, Applicant’s Trademark is likely to cause confusion and mistake among relevant purchasers.
 10. Applicant’s Trademark falsely suggests a connection between Applicant and Opposer. Applicant’s Trademark is likely to cause purchasers to draw false conclusions about the nature or quality of Applicant’s Goods under circumstances

where such a conclusion will be material to the purchaser's deliberations regarding the purchase of such services.

11. The goodwill of Opposer's business under Opposer's Trademark is of substantial value, and Opposer will suffer irreparable harm should Applicant be permitted to use and register Applicant's Trademark for Applicant's Goods.

12. If Applicant is permitted to use and register Applicant's Trademark in association with Applicant's Goods, confusion in the trade resulting in damage and injury to Opposer would likely result by reason of the identity between Applicant's Trademark and Opposer's Trademark.

WHEREFORE, Opposer respectfully requests that the Board sustain this opposition in all respects and refuse registration of Applicant's Trademark, application Serial

No. 77653862.

Respectfully submitted,

THOMPSON HINE LLP

By: /Theodore D. Lienesch/
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Certificate of Service

I hereby certify that a true copy of the forgoing Notice of Opposition was served on applicant by First Class Mail, postage prepaid, addressed to Anna Krimshtein, Law Offices of Anna Krimshtein, PLC, 2203 NE 203rd Ter., Miami, FL 33180-1309, this 14th day of October, 2009.

By: /Theodore D. Lienesch/